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**California Department of
Public Health**



EDMUND G. BROWN JR.
Governor

November 14, 2017

AFL 17-24

TO: All Long-Term Care Facilities

SUBJECT: Senate Bill (SB) 219 Long-Term Care Facilities: Rights of Residents

AUTHORITY: Health and Safety Code sections 1338.4, 1439.50, 1439.51, 1439.52, 1439.53, 1439.54, and 1569.318

All Facilities Letter (AFL) Summary

This AFL notifies long-term care facilities (LTC) of the chaptering of SB 219 that prohibits LTC facility staff from discriminating against or denying care to seniors based on a person's actual or perceived sexual orientation, gender, gender identity, gender expression, or human immunodeficiency virus (HIV) status.

Effective January 1, 2018, SB 219 (Chapter 483, Statutes of 2017) prohibits LTC facility staff from taking any of the following discriminatory actions against a resident or a potential resident, on the basis of a person's actual or perceived sexual orientation, gender identity, gender expression, or HIV status:

- Denying admission to a long-term care facility, transferring or refusing to transfer a resident within a facility or to another facility, or discharging or evicting a resident from a facility.
- Denying a request by residents to share a room.
- When rooms are assigned by gender, assigning or refusing to assign a room to a transgender resident other than in accordance with the transgender resident's gender identity, unless at the transgender resident's request.
- Prohibiting a resident from using, or harassing a resident who seeks to use or does use, a restroom available to other persons of the same gender identity, regardless of whether the resident is making a gender transition or appears to be gender-nonconforming. Harassment includes, but is not limited to, requiring a resident to show identity documents in order to gain entrance to a restroom available to other persons of the same gender identity.
- Willfully and repeatedly failing to use a resident's preferred name or pronouns after being clearly informed of the preferred name or pronouns.
- Denying a resident the right to wear or be dressed in clothing, accessories, or cosmetics that are permitted for any other resident.
- Restricting a resident's right to associate with other residents or visitors of the resident's choice, including the right to consensual sexual relations, unless the restriction is uniformly applied to all residents in a nondiscriminatory manner.
- Denying or restricting medical or nonmedical care that is appropriate to a resident's organs and bodily needs, or providing medical or nonmedical care in a manner that demeans the resident's dignity or causes avoidable discomfort.

In addition, SB 219 requires LTC facilities to post the following notice with its current nondiscriminatory policy:

"[Name of facility] does not discriminate and does not permit discrimination, including, but not limited to, bullying, abuse, or harassment, on the basis of actual or perceived sexual orientation, gender identity, gender expression, or HIV status, or based on association with another individual on account of that individual's actual or perceived

sexual orientation, gender identity, gender expression, or HIV status. You may file a complaint with the Office of the State Long-Term Care Ombudsman [provide contact information] if you believe that you have experienced this kind of discrimination."

Until January 1, 2019, SB 219 requires LTC facilities to provide existing and newly hired employees access to the online learning tool, "Building Respect for LGBT Older Adults," available on the National Resource Center on LGBT Aging Internet website at:

National Resource Center on LGBT Aging - Building respect for LGBT Older Adults

Existing law requires LTC facilities to protect resident's rights including, confidentiality of the resident's medical information, the right to be free from discrimination, and to consent to or refuse care. SB 219 enhances existing protections by requiring LTC facilities to employ procedures for recordkeeping that include the resident's gender identity, correct name, and pronoun as indicated by the resident. SB 219 reiterates existing protections requiring LTC facilities to protect personally identifiable information regarding residents' sexual orientation, whether a resident is transgender, the resident's transition history, and HIV status. Facilities must also prohibit staff not directly involved in providing care to a resident, including a transgender or gender-nonconforming resident, from being present during physical examination or the provision of personal care if the resident is partially or fully unclothed without the express permission of that resident, or their legally authorized representative. Facilities must also take reasonable steps, such as installing curtains or effective visual barriers, to ensure privacy of residents whenever a resident is partially or fully unclothed.

The California Department of Public Health's failure to expressly notify facilities of statutory or regulatory requirements of SB 219 does not relieve facilities of their responsibility for following all laws and regulations. Facilities should refer to the full text of all applicable sections of the Health and Safety Code and the California Code of Regulations to ensure compliance.

If you have questions, please contact your respective Licensing and Certification District Office. Contact information for district offices can be found at:

District Office Contact

Sincerely,

Original signed by Jean Iacino

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Deputy Director

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